S.B.CIVIL WRIT PETITION NO. 6626/2003

Durga Ram Meghwal Vs. Union of India & Ors.

DATE OF ORDER :: 29th May, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Pankaj Awasthi on behalf of Mr. K.L. Prajapat, for the petitioner.
Mr. V.K. Mathur, for the Union of India.
Ms. Pratishta Dave, for the respondent No.4.

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By this petition for writ a direction is sought by the petitioner for respondents to make payment of group insurance fund and also disability pension to him. A direction is also sought by the petitioner for sheltered appointment or for alternative service being discharged on medical disablement.

In brief facts of the case are that the petitioner was enrolled as Sepoy in Indian Army on 28.7.1998. While undergoing training the petitioner reported some pain in his right ear, therefore, he was admitted to Military Hospital, Kamptee on 11.9.1998. He was transferred to INHS, Asavini, Mumbai on 23.9.1998 for necessary treatment and diagnosis. It was found that the petitioner was suffering from Cholesteatoma-382 (right) Ear, therefore, a recommendation was made to invalidate him out from service under medical category `EEE', accordingly, the petitioner was discharged from service on 8.5.1999.

The contention of learned counsel for the petitioner while claiming for disability pension is that the petitioner suffered with a disability assessed 30% for two years and the same is attributable to military service, therefore, he is entitled for disability pension.

I do not find any substance in the contention so raised as a specific expert opinion is available on record that clearly mentions that the decease concerned is neither attributable nor aggravated during military service. I do not find any reason to interfere with such an expert opinion. So far as the claim for group insurance fund is concerned it is relevant to note that such insurance benefits are also dependent to the origin of disease. According to Clause (6) of the Liberalization of Eligibility Criteria of Disability Benefit to AGIF Low Medical Category Personnel, the personnel discharged from service in low medical category `EEE' due to disease of pre-enrollment origin are not eligible for disability benefit of AGIF. As stated above the petitioner suffered with the disease concerned prior to his enrollment in the Indian Army and was suffered with a disability of 'EEE', thus, he is not entitled for insurance fund also. No contention is raised by the learned counsel for the petitioner with regard to alternative employment.

In view of whatever discussed above this petition for writ is dismissed. No order as to cost.

(GOVIND MATHUR),J.

jgoyal